

## **Letter from Stuart Brooks of HAG to Planning Inspectorate – Dated 10 July 2016**

**Note: This letter outlined HAG's observations on the process adopted by the Planning Inspectorate for the Witney Road Inquiry**

Customer Quality Team  
The Planning Inspectorate  
4/05 The Kite Wing  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

10 July 2016

Dear Sir,

### **Planning Appeal – Reference APP/D3125/W/15/3129767**

I was one of the team representing the Hanborough Action Group (HAG) at the Public Inquiry relating to the above appeal.

HAG was granted Rule 6(6) status in a letter dated 8 September 2015 from Robert Wordsworth of the Planning Inspectorate to Mr Steve Page a HAG committee member.

The appeal related to a proposed housing development south of the Witney Road, Long Hanborough and the construction of a new school playing field. It was due to begin on 16 February 2016 but was adjourned, finally being held between the 17<sup>th</sup> and 23<sup>rd</sup> May 2016.

It is not the purpose of this letter to dispute the decision which was issued on 4 July 2016, simply to give some observations on our experience as a Rule 6(6) party.

HAG is a local group formed by members of the public. They are not planning professionals and this was our first experience of the appeals process. Hence we relied on guidance from the Planning Inspectorate to help us through the process.

Our first assumption was that the bespoke programme for the submission of documents would be adhered to by all parties. This was not the case with many documents being produced days before the inquiry began. For instance:

- The Statement of Common Ground was signed by the Appellant and West Oxfordshire District Council (WODC) on 12<sup>th</sup> May 2016, five calendar days before the inquiry began
- WODC did not produce their Proof of Evidence until well beyond the deadline

- Immediately prior to the start of the inquiry the Appellants produced three planning obligation documents dated 15 February 2016, 9 February 2016 and 8 February 2016

During the inquiry yet more documents were produced and you are referred to the appeal decision for a definitive listing.

The late tabling of documents is not good practice and should not have been permitted. HAG produced their Statement of Case and Proof of Evidence to time but, recognising the practices being allowed at the inquiry, also submitted other documents commenting on the above, in addition to providing copies of our opening and closing statements.

Nevertheless you should look into this practice, especially with regard to Schedule 6(6) parties who need time to consider their content and appreciate their significance.

HAG received a draft timetable and I would ask you to examine how it would appear to a layman. Abbreviations such as ExC and XX mean nothing to a member of the public and require telephone calls to the Planning Inspectorate for explanation.

Once the content of the timetable was understood, the guidance from the Inspectorate was poor and it was only when the inquiry began that HAG came to understand the practices.

The problem was particularly acute with respect to the presentation of the Proof of Evidence at the inquiry itself. Your letter from Mr Wordsworth dated 8 September 2015 specifies that *“if the proof is more than 1500 words long, you must also send me three copies of a written summary which should be no more than 10% of the length of the proof. The summary should reflect the contents of the proof and should not include new evidence. When a summary is provided, only that will be read at the inquiry. If proofs and summaries are not received together and on time, the inquiry may be postponed.”*

This did not happen in practice with both the Appellant’s and WODC’s Proofs of Evidence being considerably longer than 1500 words, with no summary. Needless to say, HAG followed guidance and had to severely restrict its content.

Telephone guidance from the Planning Inspectorate was to the effect that HAG should read out verbatim its Proof of Evidence. However it quickly became apparent that this was not the practice. Proofs of Evidence, or summaries were not read out. Instead WODC’s and the Appellant’s lawyers questioned their witnesses in such a manner to bring out the strengths of their cases, before cross examination. Thus HAG had to modify its approach at short notice.

HAG presented its case and the Appellant’s lawyer declined to cross examine. However in his closing submission he made a number of incorrect assertions about HAG that could not be challenged at that point in the proceedings. He had declined to make his points earlier when they could have been refuted and the Inspector permitted him to do this. It might be construed as gamesmanship but surely a professional should not resort to such tactics against a layman.

The above points have been made so that you can consider the overall process and how Schedule 6(6) parties are treated. Public participation in planning inquiries will increase and it is crucial that the public has confidence in the planning process.

Yours sincerely,

Dr Stuart Brooks

Hanborough Action Group

**Planning Inspectorate Response to Stuart Brooks of HAG – Dated 17 August 2016**



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Dr Stuart Brooks

Hanborough Action Group

Your Ref:

Walnut Cottage

Our Refs: APP/D3125/W/15/3129767

Church Hanborough

APP/D3125/W/15/3139807

Witney

Oxon, OX29 8AB

Date: 17 August 2016

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Dear Dr Brooks

**LAND SOUTH OF WITNEY ROAD AND AT RIELY CLOSE, LONG HANBOROUGH**

Thank you for your letter dated 10 July 2016, in which you raise concerns about how the above appeals were determined. I am sorry for the time it has taken to reply.

It is certainly the case that the production of documentation by the parties in a timely manner, and in accordance with the procedure rules, should allow for the process to run smoothly. However, strict accordance with the rules is not always practicable and a degree of flexibility and discretion is often needed in order for the Inspector to be able to make a fully informed decision, and for the parties to put forward everything they want considered; it will depend on the particular circumstances in each case. I fully appreciate that late submission can be frustrating for other parties, but it is permitted as long as no one is disadvantaged and everyone has a 'fair crack at the whip'.

It is not uncommon for further documentation to be produced during an Inquiry as parties respond to evidence, seek clarification on various matters, and provide answers to questions that are raised during the proceedings. I understand that HAG also produced additional documentation.

As far as I am aware, there was no request from HAG for any substantive adjournment to study particular documents, and no concerns were raised with the Inspector about the late production or signing of documents. If HAG had felt that they needed more time, please be assured that the Inspector would have considered this sympathetically, taking into account that HAG is not a professionally represented organisation. It is important that everyone has a fair opportunity to consider the submissions, and subsequently comment if they so wish

The Inspector produced a draft written timetable for proceedings before the Inquiry opening and circulated this to try and assist the parties. That said, I note what you say and I am sorry to hear that you found it necessary to telephone for clarification.

You say “...*the guidance from the Inspectorate was poor...*”; I am afraid I do not know to what this refers, and without clarification I am unable to comment.

The appellant and the Council did not produce separate summary documents with their various proofs of evidence (the proofs themselves contained summaries and conclusions). Their evidence was quite substantial; to make best use of Inquiry time and ensure that it was concluded within the allotted period (bearing in mind the already three-month delay between opening and resumption), the Inspector agreed with their advocates that there should be no need to read full summaries of evidence. Instead, the advocates took the various witnesses through the evidence, asking them to read out conclusions and the most salient points during the examination. This is one method to help ensure that an Inquiry runs to schedule. As I understand it, HAG did not query this practice or indicate they were being disadvantaged.

The procedure rules say that where a written summary of evidence is produced, only that summary is to be read out at the Inquiry. I can only apologise if we caused any misunderstanding with our telephone advice.

With regard to HAG’s evidence, it was for the appellant’s advocate to decide how to conduct his case, including whether or not to cross-examine HAG. You do not specify what incorrect assertions were made by him. As far as I am aware, there was no attempt to draw the Inspector’s attention to factual errors at the time.

In conclusion, from the information before me I am unable to conclude that HAG was disadvantaged and treated unfairly at the Inquiry. That said, I am sorry to hear how dissatisfied you are with the way the appeal progressed, and your comments have been noted.

I hope this reply is helpful.

Yours sincerely

*Bob Palmer*

Customer Quality Team

**Stuart Brooks of HAG Response to Planning Inspectorate – Dated 13 September 2016**

Customer Quality Team  
The Planning Inspectorate  
4/05 The Kite Wing  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

13 September 2016

Dear Sir,

**Planning Appeal – Reference APP/D3125/W/15/3129767**

**Land South of Witney Road and at Riely Close, Long Hanborough**

I would like to put on record the following responses to points raised in your letter dated 17 August which was only received by email on 5 September 2016. Your letter was in reply to my original letter of 10 July 2016.

Late Submission of Documents

In your letter you state that “strict accordance with the rules is not always practicable and a degree of flexibility and discretion is often needed....[depending] on the particular circumstances.” It would assist members of the public if they were informed of this policy at the outset. They would then not feel rushed to hit deadlines that are purely indicative.

Regarding the submission of additional documentation by HAG, my letter of 10 July states that this was in response to the practices being allowed at the inquiry.

Request for Adjournment to Study Late Documents

At the start of this inquiry a decision was taken to adjourn for three months at the request of the appellant. When the adjournment was announced, the Chairman of Hanborough Parish Council, a schedule 6 party, stated that he was unable to attend on the date for resumption, 17<sup>th</sup> May 2016. I therefore requested that the re-start be delayed by an extra day. The Inspector refused my request on the basis of room availability. This should not have been a material consideration in the determination of an appeal which would have such a significant impact on the village and I believe

this inflexibility is inconsistent with your defence of the liberal interpretation of document deadlines and associated deliverables.

Based on my experience I concluded that any request for any further adjournment to study documents would also be refused.

#### Draft Timetable

I find it remarkable that a final timetable was not sent to the parties before the inquiry commenced. This is bad practice with parties turning up on the first day not knowing for certain when they are due to present their case.

When public interest groups such as HAG are involved, many of their supporters would like to attend to hear the evidence and witness any cross examination.

#### Presentation of Evidence

You have asked for clarification of my statement that “guidance from the Inspectorate was poor.” This statement relates in part to telephone calls to your helpline for guidance and therefore consists of undocumented conversations. However in my letter I give the following example:

The problem was particularly acute with respect to the presentation of the Proof of Evidence at the inquiry itself. Your letter from Mr Wordsworth dated 8 September 2015 specifies that *“if the proof is more than 1500 words long, you must also send me three copies of a written summary which should be no more than 10% of the length of the proof. The summary should reflect the contents of the proof and should not include new evidence. When a summary is provided, only that will be read at the inquiry. If proofs and summaries are not received together and on time, the inquiry may be postponed.”*

This did not happen in practice with both the Appellant’s and WODC’s Proofs of Evidence being considerably longer than 1500 words, with no summary. Needless to say, HAG followed guidance and had to severely restrict its content.

Telephone guidance from the Planning Inspectorate was to the effect that HAG should read out verbatim its Proof of Evidence. However it quickly became apparent that this was not the practice. Proofs of Evidence, or summaries were not read out. Instead WODC’s and the Appellant’s lawyers questioned their witnesses in such a manner to bring out the strengths of their cases, before cross examination. Thus HAG had to modify its approach at short notice.

In your letter of 17 August you confirm that neither the appellant nor the Council produced separate summary documents, simply substantial tomes with just a brief executive summary or set of conclusions. In this situation you then state that *“the Inspector agreed with their advocates that there should be no need to read full summaries of evidence. Instead the advocates took various witnesses through the evidence.”*

At no point was this “gentleman’s agreement” communicated to the schedule 6 parties, placing them at a disadvantage.

HAG are not planning professionals or lawyers and so did not have the confidence to question this practice.

### Appellant's Closing Statement

By definition a closing statement should simply summarise what has gone before and to open up a debate, as you suggest, is not good practice. In this inquiry the appellant's lawyer raised points about HAG's approach to another planning application, the Church Road scheme. This scheme was not discussed in detail at the inquiry but the appellant was selective in summarising HAG's stance. Their lawyer presented it as an outright objection whereas HAG's well documented position was not to object to the principle of housing on this site, simply the number of proposed houses.

He also criticised HAG for not producing a housing solution for Long Hanborough. This is not HAG's role.

The appellant's lawyer had declined to make these points earlier when they could have been refuted and the Inspector permitted him to do this. It might be construed as gamesmanship but surely a professional should not resort to such tactics against laymen.

In your 17 August letter you stated that our comments have been noted. I request that you similarly note these responses and see little point in continuing this exchange.

Yours sincerely,

Dr Stuart Brooks

Hanborough Action Group

**Final Planning Inspectorate Response to Stuart Brooks of HAG – Sent by Email  
on Sunday 18<sup>th</sup> September at 17.04**

Dear Mr Brooks

Thank you for your further letter, the contents of which have been noted.

Yours sincerely

*Bob Palmer*

Customer Quality Team

Planning Inspectorate

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